

REMARKS

This is a request for reconsideration in response to the final Office Action mailed on February 23, 2011. The only rejection in the Office Action was a rejection of the pending claims for lack of enablement.

Claims 1, 2, 4, and 7 to 12 were rejected under 35 U.S.C. § 112, first paragraph, for containing subject matter that was not described in the specification in such a manner as to enable one skilled in the art to make and/or use the claimed invention.

I. The Claimed Invention and Specification Description

The claimed invention (claim 1) is a cutting head for an electric hair cutting machine that includes upper and lower shearing blades 2,3, a cutting blade 5 arranged in a slit 31 between the upper and lower shearing blades and a hair cutting length adjuster 9. The shearing blades 2, 3 are fixedly mounted by screws 40, 41 to an eccentric part 42 (figs. 1, 5, & 4; page 5, last line), which is pivotally mounted on an unlabeled connecting piece (fig. 2) protruding from the wall of the cutter head via a manually operated lever 33, so that

the shearing blades 2, 3 are movable independently of the cutting blade 5. The fixed connection between blades 2, 3 serves to define the width B of the slit 31 in which the cutting blade 5 of thickness $S < B$ is slidably mounted so that it can move relative to the blades 2, 3, especially transversely to the blades. A slidable carriage 48 with a spring guide 36, in which a U-spring 37 is held, (fig. 11; page 6, line 21, to page 7, line 3, of applicant's specification) is connected to a remaining portion of the hair cutting machine by the hooks 50, 51 (page 7, lines 5 to 7). A slaving device 12 connected with the cutting blade 5 is driven eccentrically by the drive motor with the eccentric peg 13, 14, but is constrained in its motions by the U-spring 37, whose ends are connected in holes in the cutting blade 5 (fig. 8) and which is held in the slidable carriage 48 so that the blade can move side-to-side to perform the cutting in cooperation with the shearing blades 2, 3. Because of the aforesaid components and their connections the adjusting device 9 can adjust the position of the cutting blade 5 (forward and back) relative to the shearing blades 2, 3, while it is driven to reciprocate transversely in the slit 31.

The hair cutting length adjuster (9) is defined in the last paragraph of claim 1, which is quoted here as follows:

“a hair length cut adjuster (9) configured such that the lower shearing blade (2) and the upper shearing blade (3) are adjustable relative to the cutting blade (5), whereby the lower

shearing blade (2) and the upper shearing blade (3) are adapted to move relative to the cutting blade (5) in a direction this is perpendicular to the oscillating direction."

The applicant's specification describes the hair length cut adjuster or hair cutting length adjuster in several places. Page 4, lines 12 to 20, of applicant's specification, is quoted here as follows:

"The cutting head 1 is selectively provided with an integrated hair cutting length adjuster 9, making the cutting blade 5 capable of being displaced manually in the slit 31 in the direction of the arrow (arrow 32) via a lever 33. This hair cutting length adjuster 9 is in principle known from the aforementioned EP0856386B1, particularly from Figs. 1 through 5 thereof along with the corresponding description, but instead of the lower shearing blade, in this case the two shearing blades 2, 3 solidly joined to one another are displaceable/ adjustable relative to the cutting blade 5. The cutting head 5 is embodied as a structural unit 34 and is embodied as lockable to the hair cutting machine 4 (Fig. 2)."

This portion of the description shows that a prior art reference, namely EP 0 856 386 B1, contains a description of a similar hair cutting length adjuster of the prior art (like that shown in applicant's fig. 13) that would provide sufficient additional information so that one skilled in the art can make and/or use the applicant's claimed cutting head with the hair cutting length adjuster (9). However the background section on page 1 of applicant's specification explains the differences between the claimed cutting head and that of EP 0

856 386 B1 and also points out advantages of the claimed cutting head in comparison to the cutting head described in EP 0 856 386 B1.

A complete machine English translation of this EP reference accompanies this RFR for the benefit and consideration of the Examiner, who indicated that this EP reference was considered in the Office Action mailed on October 2, 2008. EP 0 856 386 B1 was originally published in the German language, but an English abstract was filed by the applicant. The most relevant portion of EP '386 is the section of the detailed description that describes figs. 1 to 5 of that reference according to page 4, line 16, of applicant's specification.

Further details of the cutter head mechanism are explained in the paragraph that bridges pages 6 and 7 of the applicant's specification. This paragraph is quoted here as follows:

"Fig. 11 shows a plan view on the cutting head 1 with the lower and upper shearing blades 2, 3 and the stationary eccentric part 42 removed, to make a spring 37 more clearly visible. The lever 33 for manually adjusting the cutting blade 5 has been shown in dashed lines. The cutting blade 5 is guided by a parallel guide 36 by means of the one-piece, U-shaped spring 37 by means of two legs 38, 39, and for this purpose the cutting blade 5 is provided with corresponding receptacles 40, 41 for the ends of the legs. The two bores 46, 47 serve to receive the

shown in the figures, especially figures 1, 2, 11 and 12, and are described in the quoted portions of the applicant's specification about as clearly and in as much detail as the manner in which the motor reciprocates the cutting blade 5 transversely to the longitudinal axis of the cutting machine via the slaving device 12 with the eccentric drive 13.

Applicant's fig. 11 (see the above paragraph from pages 6 and 7 of applicant's specification) shows the connection of the spring 37 with its ends engaged in the holes 46, 47 in the movable cutting blade 5 (fig. 8), so that, when the shearing blades 2, 3 attached to the eccentric part 42 are moved by pivoting the lever 33, the shearing blades 2, 3 move relative to the cutting blade 5, thus changing the length of the cut (the cutting blade has a thickness S that is less than the gap B between the blades 2,3). The lever 33, which is shown in dotted in fig. 11, is pivotally mounted on an unlabeled connection piece extending from the wall of the cutter head as shown in fig. 2, but is also eccentrically engaged via an unlabeled eccentric pin (figs. 11, 12) with eccentric part 42, so that when the lever 33 is pivoted manually the eccentric pin engaged with eccentric part 42 moves it and the attached shearing blades 2, 3 back and forth in the direction of arrow 32 in fig. 1. That is the basic mechanism for moving the blades 2, 3. The eccentric pin that

angled ends of the legs 38, 39. The spring 37 is embedded in a carriage 48, so that the cutting blade 5 is capable of moving parallel. For displacing the carriage 48 by means of the eccentric 13, the carriage 48 has a sliding face 49, represented by dot-dashed lines, which corresponds to a plane face 50 (Fig. 4) of the lower shearing blade 2.”

The relevant figures to consult in applicant's specification are figures 1, 2, and especially figs. 11, 12 and 8 to understand how to make and operate the applicant's claimed cutting head with the adjuster 9. Reference is made to the aforesaid figures and descriptions in the applicant's specification in the following explanation of the mechanism and operation of the hair length cut adjuster 9.

Consideration of the entire disclosures regarding the mechanism and operation of the hair cutting length adjuster in the applicant's specification and also in EP 0 856 386 B1 (EP '386) is respectfully requested. If all these disclosures are carefully considered, it is respectfully submitted that it will be apparent that applicant's claim is fully enabled by the applicant's specification without any changes in the claims or specification.

II. Explanation of the Structure and Operation of the Hair Cutting Length Adjuster 9

The structure and operation of the adjusting device 9 are

extends from the bottom of the lever 33 and engages with the eccentric part 42 also appears unlabeled in fig. 12, which also shows hooks 50, 51 of the transversely reciprocating carriage 48 that couple with the remaining part of the hair cutting machine.

It is respectfully submitted that the aforesaid structure and operation of the hair cutting length adjuster would be apparent solely from the applicant's disclosure without any further changes in the applicant's specification after sufficient study and consideration, especially of figures 1, 2, 11, and 12 (which are by definition part of applicant's specification) and the associated written description of their subject matter.

However the structure and operation of the adjusting device 9 are described further in the detailed description of the EP '386 that is cited on page 4, line 15, in the description of the adjusting device in the applicant's specification in connection with figs. 1 to 5 of EP '386, which should clarify the function and form of the unlabeled parts of the adjusting device that were included in the above description, e.g. the unlabeled parts in applicant's figs. 1, 2 and 11 and 12.

Referring to the first paragraph of the detailed description

following the brief description of the figures in the machine English translation, EP '386 states as follows (center of the paragraph):

“The adjusting device 4 (fig. 1 of EP '386) is provided with an eccentric cam mechanism 9, with which bottom cutting blade 3 [sic] can be adjusted by means of a lever 13 in the direction of the arrow.” (The lever 13 of EP '386 is equivalent to applicant's lever 33 and the arrow 25 is similar to applicant's arrow 32.)

The cited paragraph of EP '386 continues by stating that the lever 13 is pivotally mounted to pivot about pivot axle 26 (which is pivotally engaged in a housing part of the cutting machine or its wall as shown in fig. 3 of EP '386). The lever 13 has an eccentrically mounted pin 27 extending from its other side into a guide bearing 28 that is attached to the bottom cutting blade 3, so that when the lever 13 is pivoted the eccentric pin 27 rotates with it and moves in the direction of the arrow 25 in fig. 1 of EP '386, because pin 27 is eccentrically mounted on the lever 13.

III. Rationale for the Rejection under 35 U.S.C. § 112, 1st ¶

With reference to the remarks on page 4 of the Office Action, the description in the second paragraph on page 4 of the applicant's specification clearly states that it is the shearing blades 2,3 attached to each other that are moved by the adjuster 9 relative to the cutting blade 5 -- which is held in transversely slidable carriage

48 with the spring 37. The first part of the paragraph does state that the cutting blade 5 is capable of being displaced in the slit 31 by action of the lever 33, but that is only accomplished because the lever 33 moves the shearing blades together in the direction of arrow 32 due to the engagement of the unlabeled eccentric pin in the eccentric part 42 that is screwed together with the shearing blades. Fig. 1 only shows the cutting blade/slaving device, on the one hand, and the assembled shearing blades/eccentric part/lever, on the other hand, so that one skilled in the art would understand that the wording "cutting blade being displaced in the slit" does not mean that the cutting blade moves relative to e.g. motor 11 (or the remaining part of the machine) in the direction of arrow 32. It only means that the cutting blade moves relative to the assembled shearing blades shown in fig. 1, which can be accomplished by moving the shearing blades relative to e.g. the motor 11 instead of the cutting blade.

The specification describes the adjusting device as serving to adjust the position of the shearing blades 2,3 relative to the cutting blade 5, but should not be interpreted as stating that the cutting blade 5 is movable in the direction of arrow 32 relative to the remaining portion of the hair cutting machine because those parts are not shown in fig. 1.

"Both adjustments", as described on page 4 of the Office Action, are not provided and one skilled in the art would understand that after sufficient study of applicant's specification, especially the key figures 1, 2, 11, and 12. The cutting blade 5 moves independently of the shearing blades 2, 3, which are movable in the direction of the arrow 32 relative to the remaining part of the hair cutting machine including the motor. The cutting blade 5 is held in the slidable carriage 48 by the spring 37 and oscillates transversely to the direction of arrow 32 because it is driven eccentrically by the slaving device 12 with eccentric 13.

The differences in the hair cutting length adjuster of applicant's claim 1 and that described in the first paragraph of the detailed description of EP '386, such as the location of the pivot for the lever, are due to the fact that the cutter of EP '386 only includes a single shearing blade together with their cutting blade and employs a spring to press their cutting blade against the shearing blade.

Any aspect of the structure and operation of the hair cutting length adjuster of applicant's claim 1 that is unclear from the applicant's detailed description, specifically the paragraphs quoted above and the figures referenced above, should be fully understood

after study of the disclosures in EP '386. Furthermore explicit reference is made to EP '386 on page 4 of the applicant's US specification.

The aforesaid explanation and argumentation should be particularly convincing in view of the Federal Circuit Court decisions that teach that what is well known in the prior art need not and indeed should not be included in a patent specification. For example, the Federal Circuit Court of Appeals has said:

"A patent need not teach, and preferably omits, what is well known in the art". ***Hybritech Inc. v. Monoclonal Antibodies, Inc.***, 231 U.S.P.Q. 81 (Fed. Cir. 1986).

The basic features of the structure and operation of the hair cutting length adjuster according to applicant's claim 1 are known in the art from EP '386.

In other words, the disclosure in the applicant's specification does not need to teach all the details that are needed to make a working example of the hair cutting machine or cutting head in exhaustive detail to satisfy the requirements of the first paragraph of 35 U.S.C. § 112. The remaining information that is necessary to make and/or use the claimed invention can be provided by prior art references that would be available to one skilled in the art. The

remaining information is clearly present in EP '386 and explicit reference is made to this prior art document so that one skilled in the art would clearly be able to practice the claimed invention with the applicant's hair cut length adjuster. Thus the combined subject matter of applicant's specification and EP '386 should be considered sufficient to satisfy the requirements of 35 U.S.C. § 112, first paragraph.

In addition, according to M.P.E.P. § 2164.01 whether a particular claim is supported by the disclosure in an application requires a determination of whether that disclosure, when filed, contained sufficient information regarding the subject matter of the claims as to enable one skilled in the pertinent art to make and/or use the claimed invention without undue or unreasonable amount of experimentation on their part.

Note that the applicant is not required by 35 U.S.C. § 112, 1st paragraph, to provide explicit step-by-step instructions in his written description for either making and/or using their claimed invention, because a claimed invention may satisfy the enablement requirement, even if one skilled in the art still needs to ascertain some additional information, which is not present in appellants' specification or even in the prior art, in order to make and/or use the

invention by experimentation.

Whether or not the amount of experimentation required to understand how to make and/or use a claimed invention is undue or unreasonable is determined by an analysis based on the so-called Wands factors, which were established by *In re Wands*, 858 F.2d 731, 737, 8 USPQ2d 1400, 1404 (Fed. Cir. 1988).

The Wands factors are set forth in M.P.E.P. § 2164.01 (a) and include from M.P.E.P. 2164.01 (a):

- (A) The breadth of the claims;
 - (B) The nature of the invention;
 - (C) The state of the prior art;
 - (D) The level of one of ordinary skill;
 - (E) The level of predictability in the art;
 - (F) The amount of direction provided by the inventor;
 - (G) The existence of working examples; and
 - (H) The quantity of experimentation needed to make or use the invention based on the content of the disclosure.
- In re Wands*, 858 F.2d 731, 737, 8 USPQ2d 1400, 1404 (Fed. Cir. 1988)

None of the Office Actions containing this rejection contain any consideration of the Wands factors. The analysis including these factors should be made explicit in any rejection based on 35 U.S.C. § 112, first paragraph.

The level of predictability in the mechanical arts is high in comparison to other arts, such as the chemical arts. Thus one would expect that the hair cutting length adjuster of EP '386 could be successfully adapted to the applicant's hair cutting machine or cutting head. Furthermore explicit reference is made to disclosures in EP '386, which explain the structure and operation of the hair cutting length adjuster.

For the aforesaid reasons withdrawal of the rejection of claims 1, 2, 4, and 7 to 12 under 35 U.S.C. § 112, first paragraph, for containing subject matter that was not described in the specification in such a manner as to enable one skilled in the art to make and/or use the claimed invention is respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawing be further amended or corrected in formal respects to put this case in condition for final allowance, then it is requested that such amendments or corrections be carried out by Examiner's Amendment and the case passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing the case to allowance, he or she is invited to telephone the undersigned at 1-631-549 4700.

In view of the foregoing, favorable allowance is respectfully solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "M. J. Striker", with a long horizontal flourish extending to the right.

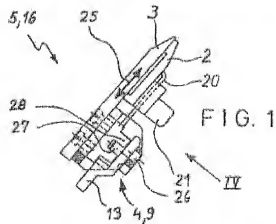
Michael J. Striker,
Attorney for the Applicant
Reg. No. 27,233

Electric hair cutting machine

Abstract of EP 0856386 (A1)

Translate this text

The hair cutter (1) has upper and lower cutters (2,3) arranged one on top of the other. The upper cutter is vibrated for cutting and both cutters can be adjusted with respect to each other by an adjuster (4) to alter the length of the cut. The upper and lower cutters and the adjuster are made as a single unit (5) which can be detached from the machine. The unit can be joined to the machine by a latching, locking or screw connection.



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Description of EP0856386

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The invention relates to an electric Haarschneidemaschine after the genus of the preamble of Claim 1.

A such Haarschneidemaschine is from the DE-AS 11 93 834 known. Adverse one here is that the assembly of the knives and the adjusting device with the housing of the Haarschneidemaschine is right expensive by multistage assembly processes, whereby high manufacturing costs develop. Under this constructional structure a reliable seal is not possible to the housing-inner for avoidance of a contamination by cut off hair particles.

It is therefore object of the invention creating a genericsame Haarschneidemaschine which is more inexpensive producible, the one large constructional clearance of an adjusting device and a reliable seal to housing-inner achieved.

Detached one becomes this object after the characterizing part of the claim 1. Other favourable developments/embodiments of the invention come out from the Unteransprüchen. Because the adjusting device in the knifehead is integrated and this as an assembly provided is, a significant manufacturing costs lowering becomes achieved. Thus also an high seal becomes the housing-inner of the Haarschneidemaschine achieved, so that a corresponding contamination becomes avoided by hair particles (claim 1).

The assembly is by outside manipulation of the Haarschneidemaschine releasable (for the example by means of a racing, a bolting device or a screw connection) formed, in order this waits (clean, oils, a repairing) to be able (claim 2 and 3).

A simple construction of the assembly arises as a result of the fact that the adjusting device consists of a manual slidable bottom measurer, whereby that is shiftable Obermesser in gumption oscillations (claim 4).

Various constructions of an adjusting device are given by the fact that a corresponding eccentric cam or window blind curve or a joint or a sliding mechanism a provided is (claim 5).

For manual adjusting the hair-prolonged which can be cut is a-lever or a button or a rotary ring or a slide ring or an actuator portion provided (claim 6).

Particularly handy, manual adjusting of the adjusting device is that, achieved by the fact, which is trick or slide ring around an housing of the Haarschneidemaschine around disposed the corresponding kinematic with the adjusting device (claim 7).

The invention becomes more near described on the basis several embodiments.

It shows:

Fig 1 in a side view a first embodiment of a cutter head as an assembly;
 Fig 2 in a side view an electric Haarschneidemaschine without cutter head;
 Fig 3 in a side view the Haarschneidemaschine with a cutter head connected thereby;
 Fig 4 in a top view the cutter head after the fig 1;
 Fig 5 the cutter head after the fig 4, however with a prolonged cut prolonged attitude;
 Fig 6 a view after the section XI-XI after the fig 4;
 Fig 7 to 11 enlarged represented parts of the adjusting device;
 Fig 12 in a top view a second embodiment of a cutter head;
 Fig 13 in a side view a third embodiment of a cutter head;
 Fig 14 in a side view the cutter head after the fig 8, which is connected with a Haarschneidemaschine;
 Fig 15 to 17 a fourth embodiment;
 Fig 18 to 20 a fifth embodiment, and
 Fig 21 and 22 a sixth embodiment.

Fig 1 to 3 show a first embodiment. In the fig 2 an electric Haarschneidemaschine is 1 shown, whereby an appropriate cutter head 16 is in the fig 1 shown. The Haarschneidemaschine 1 is provided with an electric motor 17, a eccentric cam-like drive pin 18 and a cutter head admission 19. By the driver part of 21 the rotations of the drive pin 18 in gumption oscillations of the Obermessers become 2 transmitted. The cutter head 16 exhibits a Obermesser 2 and a bottom measurer 3, which are lying on top of one another disposed, whereby that is shiftable Obermesser 2 from the drive pin 18 by a driver part 21 in gumption oscillations. Purpose cut prolonged attitude both knives are 2, 3 relative to each other 4 formed adjustable by means of an adjusting device. The cutter head 16 is with the Obermesser 2, the bottom measurer 3 and the adjusting device 4 as an assembly 5 a formed spring 20 presses that Obermesser 2 against bottom measurers the 3. The adjusting device 4 is provided with an eccentric cam mechanism 9, with which bottom measurer can become 3 25 adjusted by means of a lever 13 in direction of arrow, whereby over an axis of rotation 26 a Exzenterzapfen. 27 over a guide bearing 28 bottom measurer 3 in direction of arrow 25 to shift can do. By a partition 29, is 17 guided by which only drive shaft 32 of the motor, a reliable seal becomes the housing-inner 30 achieved, so that from time to time only the cutter head admission must become 19 cleaned of cut off hair particles. Purpose other optimization of the seal a washer can become 31 provided between the partition 29 and the motor 17. In the fig 3 the cutter head 16 with the Haarschneidemaschine 1 with the cutter head admission is 19 releasable connected, to which a racing, a bolting device or a screw connection 6, 7, 8 provided can become.

A top view I

EMI5.1

after the fig 1 on the cutter head 16 (and/or. Assembly 5) shows the fig 4, from which the eccentric cam mechanism 9 comes out better, which converts a rotational movement of the lever 13 into a linear movement of the bottom measurer 3. The intermediate positions of the lever 13 are here racable formed. Alternatively window blind curve, a joint or sliding mechanism can become also 10, 11, 12 provided. The adjusting device 4 is here set on minimum cut length.

Fig 5 shows the cutter head 16 in one - opposite the fig 4 - maximum set cut length, whereby bottom measurer is the 3 upward adjusted here.

In the fig 6 the section XI-XI is 4 shown after the fig. In particular here a parallel guide 33 of the adjustable bottom measurer 3 comes out more near.

In the fig 7 the lever is 13 with the axis of rotation 26 and the Exzenterzapfen 27 the corresponding fig 4 shown. A corresponding side view after the fig 6 comes out from the fig

8. In the fig 9 a guide member 41 with a guide bearing 28 of the parallel guide is 33 (fig 6)

shown. Bottom measurer the 3 is 41 connected over threaded bores 42 with the guide member. The Exzenterzapfen corresponding with the guide bearing 28 27 is in the fig 9 and 10 broken indicated, whereby fig 10 represents a side view after the fig 9. In the fig 11 the guide member 41 is the corresponding fig 6 shown. Bottom 43 three detents are shown (fig 7). A second embodiment of an assembly 5,1 is in the fig 12 shown. Here the lever mechanism is 13,1 such designed that this can become 5,1 manual adjusted at both sides of the assembly, for the example at a knob 34.

As a third embodiment an assembly is 5,2 similar, however with a sliding mechanism 12 shown after the fig 1 for shifting the bottom measurer 3 by means of an actuator portion 22 in the fig 13. By a detent device 35 (spring/ball/ball hollow) that can become resting bottom measurer 3 adjusted.

Fig 14 shows the complete Haarschneidemaschine 1.

A fourth embodiment of an assembly 5,3 with a rotary ring 15 at the housing 23 is in the figs 15 to 17 shown. Adjusting the bottom measurer 3 made here through axial tricks of a rotary ring 15, a drive bit 36 of the eccentric cam mechanism 9 moved and thus adjusting of the bottom measurer 3 effected. The drive bit 36 is with a slot 37 of the rotary ring 15 rests, whereby the rotary ring becomes 15 only 23 guided axial of the housing.

A fifth embodiment of an assembly 5,4 with a slide ring 24 at the housing 23 is in the figs 18 to 20 shown. Adjusting the bottom measurer 3 made here by axial shifting of the slide ring 24. For this the slide ring 24 drehfest with the housing 23 by means of a slide ring guidance 39 connected is. The slide ring 24 is provided with a slanting disposed guide slot 38, a drive bit 36,1 of the eccentric cam mechanism 9 moved and thus adjusting of the bottom measurer 3 effected.

A sixth embodiment of an assembly 5,5 is in the figs 21 and 22 shown. The similar embodiment after the figs 8 and 9 is here slots of the bottom measurer 3 provided, whereby is 14 provided for disengaging a button here, whereby a detent spring is 40 integral 5,5 connected with the assembly.

Reference symbol list

- 1 Electric Haarschneidemaschine
- 2 Obermesser
- 3 Bottom measurer
- 4 Adjusting device
- 5, 5,1 - 5,5 Assembly
- 6 Rest connection
- 7 Bolting device connection
- 8 Screw connection
- 9 Eccentric cam mechanism
- 10 Window blind curve mechanism
- 11 Hinge mechanism
- 12 Sliding mechanism
- 13, 13.1 Lever
- 14 Button
- 15 Rotary ring
- 16, 16.1 Cutter head
- 17 Electric motor
- 18 Drive pin
- 19 Cutter head admission

20 Spring
21 Driver part
22 Actuator portion
23 Housing
24 Slide ring
25 Direction of arrow
26 Axis of rotation
27 Exzenterzapfen
28 Guide bearing
29 Partition
30 Housing-inner
31 Washer
32 Drive shaft
33 Parallel guide
34 Knob
35 Detent device
36, 36.1 Drive bit
37 Slot
38 Guide slot
39 Slide ring guidance
40 Detent spring
41 Guide member
42 Threaded bore
43 Detents